

**IN THE ENVIRONMENT COURT
AT WELLINGTON**

ENV-2023-

**I MUA I TE KOOTI TAIAO
I TE WHANGANUI-Ā-TARA**

IN THE MATTER the Resource Management Act 1991 ("**RMA**")

BETWEEN **WOOLWORTHS NEW ZEALAND LIMITED**

Appellant

AND **SOUTH WAIRARAPA DISTRICT COUNCIL**

Respondent

NOTICE OF APPEAL

18 DECEMBER 2023

**Russell
McAugh**

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TO: the Registrar
Environment Court
Wellington

WOOLWORTHS NEW ZEALAND LIMITED ("Woolworths") appeals a decision ("**Decision**") on the following matter:

Decision

1. Woolworths appeals against a decision of a Commissioner of the South Wairarapa District Council to decline Woolworths' application ("**Application**") for resource consent for the construction and operation of a new one-way vehicle entry at 134 Main Street, Greytown ("**Site**"), to Woolworths' existing FreshChoice supermarket.
2. Woolworths is the franchisor of FreshChoice, a supermarket located at 12 Hastwell Street, Greytown. It lodged the Application for resource consent in April 2023 to construct and operate a new access for customer and service vehicles to the existing FreshChoice supermarket, alongside associated signage and landscaping.
3. The FreshChoice supermarket currently has access from West Street and Hastwell Street. Presently, service vehicles (including B-trains) are required to enter the customer carpark from Hastwell Street, cross the store carpark and reverse manoeuvre into the loading dock, before exiting on West Street. The proposed new access would eliminate this reverse manoeuvre, improve the safety of the supermarket and customers, and improve visibility of the store from Main Street. The Application sought to retain a large Copper Beech tree and stone wall located at the Site, as well as other design and landscaping measures.
4. The Application has a discretionary activity status under the Operative South Wairarapa Combined District Plan.
5. Woolworths presented evidence and legal submissions at a hearing in Greytown and Featherston on the Application on 2 and 3 October 2023. Woolworths provided written closing legal submissions on 20 October 2023, with a revised crossing proposal to further reduce the number of vehicles which would use the crossing.
6. Woolworths received notice of the Decision on the Application on 27 November 2023. The Decision declined consent.

7. Woolworths is not a trade competitor for the purposes of section 308D of the Resource Management Act 1991.

Reasons for appeal

8. Woolworths appeals the whole of the Decision. It seeks the Court's approval of the Application, subject to conditions. The Application, on the conditions sought by Woolworths:
- (a) will promote the sustainable management of resources, and therefore achieve the purpose and principles of the RMA;
 - (b) is not contrary to Part 2 and other provisions of the RMA;
 - (c) will meet the reasonably foreseeable needs of future generations;
 - (d) will enable social, economic and cultural wellbeing; and
 - (e) is consistent with the relevant planning documents.

Specific reasons for appeal

9. Without limiting the generality of paragraph 8, Woolworths appeals the decision on the basis that:
- (a) The effects of the proposal are less than minor, including in relation to traffic, urban design, landscape and heritage matters.
 - (b) The proposal will enable significant traffic safety benefits and improvements.
 - (c) The mitigation proposed by Woolworths (including in relation to the retention of the Copper Beech tree, restrictions on the use of the crossing, and other landscaping, urban design and traffic measures proposed) together avoid, remedy or mitigate any adverse effects.

Relief sought

10. Woolworths seeks the following relief:
- (a) the appeal be allowed;
 - (b) consent be granted subject to the conditions proposed by Woolworths dated 20 October 2023 and provided at the conclusion of the Council hearing;

- (c) such further other orders, relief or other consequential or other amendments as considered appropriate and necessary by the Court to address the concerns set out herein; and
- (d) costs of and incidental to this appeal.

Attachments

11. The following documents are attached to this notice:
- (a) a copy of the relevant decision; and
 - (b) a list of names and addresses of persons to be served with a copy of this notice.

WOOLWORTHS NEW ZEALAND LIMITED by its solicitors and authorised agents
Russell McVeagh:



Signature: A A Arthur-Young | S F D Barnett

Date: 18 December 2023

Address for Service: C/- Sylvia Barnett
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Advice to recipients of copy of notice of appeal

How to become a party to proceedings

1. If you wish to be a party to the appeal, you must:
 - (a) within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings (in [form 33](#)) with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and
 - (b) within 20 working days after the period for lodging a notice of appeal ends, serve copies of your notice on all other parties.
2. You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing requirements (see form 38).
3. Your right to be a party to the proceedings in the Court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

Advice

4. If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch.